

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LINDA SINSUN MARRON  
2271 Mono Street  
Oxnard, CA 93036

Registered Nurse License No. 737847

Respondent.

Case No. 2012-738

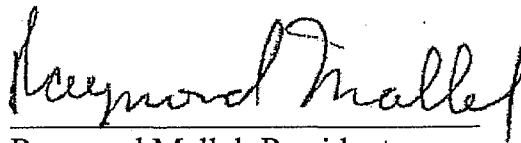
OAH No. 2012070820

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on April 5, 2013.

IT IS SO ORDERED this 6th day of March, 2013.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

BEFORE THE  
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STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Linda Sinsun Marron

Registered Nurse License No. 737847,

Respondent.

Case No. 2012-738

OAH No. 2012070820

**PROPOSED DECISION**

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on October 16, 2013, in Ventura, California.

Christina Thomas, Deputy Attorney General, represented Complainant Louise R. Bailey, M.Ed., R.N., the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, State of California (Complainant).

Respondent Linda Sinsun Marron (Respondent) did not appear and was not represented.

Oral and documentary evidence was received on October 16, 2012. The record was held open for 10 calendar days for Complainant to submit a copy of Respondent's certified license history. Complainant failed to timely file the certified license history, the record was closed and the matter was submitted on October 26, 2012. The record was reopened on December 3, 2012, upon receipt of the certified license history which was marked and admitted as exhibit 7.

**FACTUAL FINDINGS**

1. On June 11, 2010, Complainant signed and filed the Accusation in Case No. 2012-738 (the Accusation) in her official capacity. The Accusation and other required jurisdictional documents including the Notice of Hearing were properly served on Respondent. Respondent timely filed a Notice of Defense.

2. On October 6, 2008, the Board of Registered Nursing (the Board) issued Registered Nurse License No. 737847 to Respondent. The license expired on August 31, 2012, and has not been renewed.

3. On October 28, 2010, Respondent reported to work in the Emergency Department of the St. John's Medical Center (Hospital) in Oxnard, California. Respondent was visibly impaired and displayed characteristics of intoxication and being under the influence of narcotics. Her co-workers and supervisor observed Respondent to have slurred and incoherent speech, be confused, disoriented and unable to maintain her balance. Respondent also had an odor of alcohol about her.

4. Hospital administrators escorted Respondent from the Emergency Room to the Human Resources office. Respondent denied being under the influence of alcohol but admitted that she was under the influence of Soma<sup>1</sup> and Vicodin<sup>2</sup> prescribed by her physician for alleviation of back pain. Respondent was instructed by the Hospital Director of Nursing to undergo an immediate alcohol screening test on the Hospital breathalyzer. Respondent submitted to the alcohol screening and her breathalyzer reading was .084 percent breath-alcohol content, indicating a state of intoxication.

5. Respondent was placed on administrative suspension and sent home by the Director of Nursing with instructions to complete a drug and alcohol addiction program before returning to the Hospital. The Hospital reported the incident and Respondent's suspension to the Board on April 8, 2011.

#### *Aggravation/Mitigation/Rehabilitation*

6. There was no evidence of mitigation or rehabilitation.

7. On June 14, 2002, in the Superior Court of California, County of Ventura, in case number 2002017718, entitled *The People of the State of California v. Linda Sinsun Marron*, Respondent was convicted, upon her plea of guilty, of violating Vehicle Code section 23152, subdivision (b), driving while having a blood alcohol level of .08 percent or more. She was sentenced to 5 days in jail, 36 months formal probation, ordered to pay fees, fines and restitution in the amount of \$1,430 and complete a first conviction drunk driver program. Additionally, her driver's license was suspended for 90 days.

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<sup>1</sup> Soma is the brand name for Carisoprodol, a muscle relaxant, and is categorized as a dangerous drug pursuant to Health & Safety Code section 4022.

<sup>2</sup> Vicodin is the brand name for Acetaminophen and Hydrocodone. It is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e) and is categorized as a dangerous drug pursuant to Health and Safety Code section 4022.

### *Costs of Investigation and Enforcement*

8. Business and Professions Code section 125.3 authorizes an administrative law judge to direct a licensee who has violated the applicable licensing act to pay a sum not to exceed the reasonable costs of investigation and prosecution.

9. Complainant provided a certification of prosecution costs and a declaration of Deputy Attorney General Christina Thomas dated July 21, 2012, detailing Attorney General charges in the amount of \$2,787.50 during the period of December 22, 2011 to August 31, 2012, by paralegals at the rate of \$120 per hour and attorneys' fees at the rate of \$170 per hour. The total reasonable costs of investigation and prosecution incurred are \$2,787.50.

### LEGAL CONCLUSIONS

1. The standard of proof in an administrative disciplinary action seeking the suspension or revocation of a registered nursing license is "clear and convincing evidence." (*See Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 583.) "Clear and convincing evidence" requires a finding of high probability. It must be sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re David C.* (1984) 152 Cal.App.3d 1189, 1208.)

2. Business and Professions Code<sup>3</sup> section 2750 provides that every registered nurse licensee may be disciplined as provided in the Nursing Practice Act.

3. Code section 2761, subdivision (a)(1), provides that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct, which includes incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

4. Code section 2762, subdivision (b), provides that it is unprofessional conduct for a registered nurse to use any controlled substance, or any dangerous drug or dangerous device, or alcoholic beverages to an extent or in a manner dangerous or injurious to herself, any other person, or the public or to the extent that such use impairs her ability to conduct with safety to the public the practice authorized by her license.

5. Code section 2764, provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

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<sup>3</sup> All further references to the Business and Professions Code are referred to as Code.

6. Cause for discipline of Respondent's registered nurse license exists pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), based upon Factual Findings 3-5 and Legal Conclusions 1-5 in that Respondent committed unprofessional conduct on October 28, 2010, when she was impaired and under the influence of alcohol, Soma and Vicodin while on duty as a registered nurse in the Emergency Room Department of Saint John's Medical Center in Oxnard, California. Respondent's impairment and intoxication was dangerous to herself and the patients under her care.

*Discipline per Board Guidelines*

7. The preface to the Board's Recommended Guidelines for Disciplinary Orders and Conditions of Probation states:

In keeping with its obligation to protect the consumer of nursing services from the unsafe, incompetent and/or negligent registered nurse, the Board of Registered Nursing has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Nursing Practice Act. . .

If, at the time of hearing, the Administrative Law Judge finds that the respondent for any reason is not capable of safe practice, the Board favors the outright revocation of the license. If, however, the respondent has demonstrated a capacity to practice safe nursing, a stayed revocation order with probation is recommended.

8. The recommended disciplinary guidelines that most closely apply to this matter provide as follows:

*Incompetence or gross negligence*

The maximum recommended discipline is revocation. The minimum recommended discipline is revocation, stayed, with three years probation on terms and conditions 1-13.

9. The disciplinary guidelines also provide that revocation is recommended when a respondent either fails to file a notice of defense or fails to appear at a disciplinary hearing, where, as here, the board has requested revocation.

10. The disciplinary guidelines provide that the following factors are to be considered when determining whether revocation, suspension or probation is to be imposed in a given case: (1) Nature and severity of the act(s), offenses, or crime(s) under consideration; (2) Actual or potential harm to the public; (3) Actual or potential harm to any patient; (4) Prior disciplinary record; (5) Number and/or variety of current violations; (6) Mitigation evidence; (7) Rehabilitation evidence; (8) In case of a criminal conviction, compliance with conditions of sentence and/or court-ordered probation; (9) Overall criminal record; (10) Time passed since the act(s) or offense(s) occurred; and (11) evidence of expungement proceedings.

11. The disciplinary guidelines contain criteria to be considered in determining rehabilitation for abuse of alcohol or other drug related offenses. Among the consideration are the successful completion of drug/alcohol treatment program of a minimum of six months duration and employment in nursing for six months without evidence of continued alcohol or drug use.

*Costs of Investigation and Prosecution*

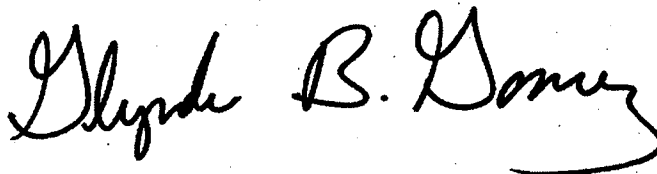
12. Code section 125.3 permits the Board to recover from Respondent its reasonable costs of investigation and prosecution of this disciplinary matter. As set forth in Finding 9, the total reasonable costs of investigation and prosecution are \$2,787.50.

13. Respondent's unprofessional conduct is disturbing in that she placed herself and others under her care in danger. The potential for harm to patients and distraction of others responding to life threatening emergencies was great. The situation is aggravated by the fact that this is not the first instance of Respondent's alcohol abuse as evidenced by her conviction in 2002 for an alcohol related offense. Respondent did not appear for the disciplinary hearing and there was no evidence of rehabilitation or mitigation. Based upon the foregoing, public protection requires that Respondent's registered nurse license be revoked.

ORDER

Registered Nurse license number 737847 issued to Respondent Linda Sinsun Marron is hereby revoked. If and when respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$2,787.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

DATED: January 3, 2013



GLYNDA B. GOMEZ  
Administrative Law Judge  
Office of Administrative Hearing

# Exhibit A

Accusation Case No. 2012-738

1 KAMALA D. HARRIS  
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2 MARC D. GREENBAUM  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-738**

12 **LINDA SINSUN MARRON**  
1120 Almendra Place  
13 Oxnard, CA 93036

**ACCUSATION**

14 Registered Nurse License No. 737847

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs (Board).

22 2. On or about October 6, 2008, the Board of Registered Nursing issued Registered  
23 Nurse License No. 737847 to Linda Sinsun Marron (Respondent). The Registered Nurse License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 August 31, 2012, unless renewed.

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 9. **CONTROLLED SUBSTANCE**

4 "Vicodin," is the brand name for Acetaminophen and Hydrocodone. It is a Schedule III  
5 controlled substance as designated by Health and Safety Code section 11056, subdivision (e) and  
6 is categorized as a dangerous drug pursuant to section 4022.

7 10. **DANGEROUS DRUG**

8 "Soma," is the brand name for Carisoprodol, a muscle relaxant, and is categorized as a  
9 dangerous drug pursuant to section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcoholic Beverages and Controlled Substances)**

12 11. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
13 defined in section 2762, subdivision (b), in that Respondent used controlled substances and/or  
14 dangerous drugs to an extent or in a manner dangerous or injurious to herself, another person, or  
15 the public. On or about October 28, 2010, while employed as a registered nurse at Saint John's  
16 Medical Center (SJMC), in Oxnard, CA, in the Emergency Room Department, Respondent  
17 presented herself to work impaired, and under the influence of alcohol. She was observed by  
18 staff to have a slurred and incoherent voice, her gait was unbalanced, she appeared confused and  
19 disoriented, and exuded an odor of alcohol. Respondent was ordered by SJMC's Administration  
20 to submit to an alcohol screening test on SJMC's Breathalyzer that resulted in a breath-alcohol  
21 content level of 0.084%. When asked by SJMC's Administration about her detected high blood  
22 alcohol level, Respondent denied that she had recently consumed any alcoholic beverages, but  
23 admitted that she had consumed physician-ordered prescription narcotics of Soma and Vicodin.  
24 In addition, Respondent admitted that she consumed Soma and Vicodin regularly.  
25 Furthermore, Respondent admitted that she was under the influence of prescription narcotics of  
26 Soma and Vicodin.

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